IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.1633 OF 2005

M/s.Vijayjyot Seats Pvt.Ltd. .. Petitioners
V/s
Union of India & Ors. . Respondents.

Mr.Prakash Shah i/by M/s.DSK Legal for the Petitioners.
Mr.A.J.Rana with Ms.S.V.Bharucha for the Respondents.

CORAM: S.RADHAKRISHNAN &
A.S.AGUIAR, JJ.

DATE : 22.06.2005.

P.C.:

1. Rule. Rule is made returnable forthwith. The learned Counsel for Respondent Nos.1 and 2 waives service. Heard the learned Counsel for the Petitioners and the learned Counsel for Respondent Nos.1 & 2.

2. By this petition, the Petitioner is basically challenging the order dated 8.2.2005 whereby the CESTAT had directed the Petitioner to make pre-deposit of Rs.25 lakhs. Thereafter the Petitioner had filed a Modification Application before the CESTAT, which came to be rejected by the CESTAT on 12.4.2005. The learned Counsel for the Petitioner has brought to our notice that subsequent to the aforesaid order bring passed by the CESTAT, a new Finance Act of 2005 (which came into force on 11.5.2005) has amended the original Section 88 of the Finance Act of 2004. The learned Counsel for the Petitioner has pointed out that as per the amended provision as indicated in the Finance Finance Act of 2005 the Petitioner is entitled to pay the entire amount by way of 36 equal instalments. Relying on the said

provision of the Finance Act of 2005, the learned Counsel for the Petitioner prays that the Tribunal ought to be directed to reconsider the earlier order dated 8.2.2005 with regard to the pre-deposit of Rs.25 lakhs.

3. Having regard to the facts and circumstances of the case, as the order dated 12th April, 2005 was passed by the CESTAT prior to the coming into force the Finance Act of 2005 (which came into force from 11th May, 2005), we are of the opinion that the CESTAT ought to consider the new provision as indicated by the Finance Act of 2005 in the amended Section 88. We therefore quash and set aside the order dated 12th April, 2005. Petitioner is at liberty to approach the CESTAT within a period of one week with their application for modification of the order in the light of the new provision of Finance Act of 2005. The CESTAT shall consider the said application strictly on its own merits, in accordance with law, and shall pass an appropriate order with reasons. Writ Petition stands disposed of in terms of the above.

(S.RADHAKRISHNAN J.)

(A.S.AGUIAR,J.)